

modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff filed a pro se complaint alleging that following a hearing on January 23, 2013, an Administrative Law Judge wrongfully denied him benefits. Plaintiff seeks relief in the form of an award of disability benefits and legal fees.

The magistrate judge recommends dismissing the complaint for lack of subject matter jurisdiction because plaintiff has not alleged that he sought administrative review of his denial of benefits, and this failure to exhaust administrative remedies is fatal to this court’s jurisdiction. Where plaintiff does not object to this ground for dismissal set forth in the M&R, the court reviews this determination for clear error. Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005). Plaintiff’s complaint must be dismissed where it fails to meet the condition precedent for this court’s jurisdiction. See 42 U.S.C. § 405(g). Accordingly, the court will adopt the recommendation of the magistrate judge and dismiss the complaint.

CONCLUSION

Upon considered reviewed of the M&R and the record generally, the court ADOPTS the findings and recommendations of the magistrate judge in full. Plaintiff’s complaint is DISMISSED with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) for lack of subject matter jurisdiction. The clerk is directed to close this case.

SO ORDERED, this the 28th day of January, 2014.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is cursive and fluid, with the first name "Louise" being the most prominent part.

LOUISE W. FLANAGAN
United States District Judge